

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

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In re:		: Chapter 11
		:
ORION HEALTHCORP, INC ¹ .		: Case No. 18-71748 (AST)
		:
Debtors.		: (Jointly Administered)
-----		:
HOWARD M. EHRENBERG IN HIS CAPACITY AS		:
LIQUIDATING TRUSTEE OF ORION HEALTHCORP, INC.,		: Adv. Pro. No. 20-08051 (AST)
ET AL.,		:
		:
Plaintiff,		:
		:
v.		:
		:
ELENA SARTISON; 2 RIVER TERRACE APARTMENT 12J,		:
LLC; CLODAGH BOWYER GREENE A/K/A CLODAGH		:
BOWYER; ELLIOTT GREENE,		:
		:
Defendants.		:

**AFFIDAVIT OF LA ASIA S. CANTY IN SUPPORT
OF REPLY OF PLAINTIFFS' MOTION FOR DEFAULT
JUDGMENT AGAINST 2 RIVER TERRACE APARTMENT 12J, LLC**

STATE OF NEW JERSEY)
) ss:
COUNTY OF SOMERSET)

LA ASIA S. CANTY, being duly sworn, upon her oath, states as follows:

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are: Orion Healthcorp, Inc. (7246); Constellation Healthcare Technologies, Inc. (0135); NEMS Acquisition, LLC (7378); Northeast Medical Solutions, LLC (2703); NEMS West Virginia, LLC (unknown); Physicians Practice Plus Holdings, LLC (6100); Physicians Practice Plus, LLC (4122); Medical Billing Services, Inc. (2971); Rand Medical Billing, Inc. (7887); RMI Physician Services Corporation (7239); Western Skies Practice Management, Inc. (1904); Integrated Physician Solutions, Inc. (0543); NYNM Acquisition, LLC (unknown) Northstar FHA, LLC (unknown); Northstar First Health, LLC (unknown); Vachette Business Services, Ltd. (4672); Phoenix Health, LLC (0856); MDRX Medical Billing, LLC (5410); VEGA Medical Professionals, LLC (1055); Allegiance Consulting Associates, LLC (7291); Allegiance Billing & Consulting, LLC (7141); New York Network Management, LLC (7168). The corporate headquarters and the mailing address for the Debtors listed above is 1715 Route 35 North, Suite 303, Middletown, NJ 07748.

1. I am a paralegal with Pachulski Stang Ziehl & Jones LLP, attorneys for the Plaintiff, Howard M. Ehrenberg in his capacity as Liquidating Trustee of Orion Healthcorp, Inc., et al., (the “Plaintiff”), for the estates of the above-captioned debtors in the above-captioned cases . I have personal knowledge of the facts set forth herein and am duly authorized to submit this Affidavit in support of the Plaintiff’s *Reply in Support of Plaintiffs’ Motion For Default Judgment*.

2. On March 14, 2020, Plaintiff filed the *Complaint For Avoidance and Recovery of Preferential Transfers Pursuant to 11 U.S.C. §§ 547 & 550* (the “Complaint”) [Docket No. 1].

3. On September 30, 2020, Plaintiff, by and through his counsel, filed the *Motion for Entry of Default and For Entry of Default Judgment Against Defendant 2 River Terrace Apartment 12J, LLC* [Docket No. 21].

4. On October 26, 2020, Defendant 2 River Terrace Apartment 12J, LLC filed its *Objection to Motion for Entry of Default Judgment Against Defendant 2 River Terrace Apartment 12J, LLC* [Docket No. 31] (the “Objection”).

5. In its objection, the Defendant alleges that “[it] was not... until July 10, 2020 – one hundred and sixteen days after the complaint was filed – that Plaintiff made any effort to serve Defendant 2 River Terrace. Plaintiff did so via personal service on the Secretary of State, in spite of being fully aware that the Secretary of State would in turn send the notice to the untenanted Apartment 12J at 2 River Terrace.”

6. This allegation is not accurate as numerous efforts to serve the Defendant were made beginning on March 16, 2020, as detailed below.

7. Rule 7004 of the Federal Rules of Bankruptcy Procedure provides in relevant part:

(b) **Service by First Class Mail.** Except as provided in subdivision (h), in addition to the methods of service authorized by Rule 4(e)–(j) F.R.Civ.P., service may be made within the United States by first class mail postage prepaid as follows:.

(3) Upon a domestic or foreign corporation or upon a partnership or other unincorporated association, by mailing a copy of the summons and complaint to the attention of an officer, a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process and, if the agent is one authorized by statute to receive service and the statute so requires, by also mailing a copy to the defendant. . . .

Fed. R. Bankr. P. 7004(b)(3)

8. On March 16, 2020, in compliance with Fed. R. Bankr. P. 7004(b)(3), I caused the *Summons in an Adversary Proceeding* [Docket No. 2] (the “Summons”) and the Complaint to be served upon the Defendant by U.S. Mail and certified mail return receipt requested at: (i) 2 River Terrace Apartment 12J, LLC, The Limited Liability Company, 2 River Terrace, Apartment 12J, New York, NY 10282 (which is the address listed in the NYS Department of State, Division of Corporations) (the “Registered Address”); (ii) the address for the physical location of the property and (iii) c/o Robinson Brog Leinward Greene, *et al.*, Attn: Phil Thomas, Esq., 875 Third Avenue, New York, NY 10022. On March 18, 2020, Robinson Brog received the Summons and Complaint via Certified Mail. A copy of the return receipt is attached hereto as **Exhibit A**. Service upon the Defendant at the Registered Address by certified mail was unsuccessful. A true and correct copy of the Certified Mail Receipt - Form 3800, as well as the tracking information are attached hereto as **Exhibit B**. The tracking information evidenced a lapse in tracking service between March 28, 2020 and May 2, 2020 with respect to service to the address at 2 River Terrace, Apartment 12J, New York, NY

10282. However, the service to the address by US mail was not returned. Plaintiff sought to serve the New York Secretary of State directly.

9. On March 16, 2020, service was also made on all other defendants in this adversary proceeding via Certified Mail, Return Receipt Requested and First Class US Mail.

10. The deadline for Defendant to answer or otherwise respond to the Complaint was 30 days after the issuance of the Summons, *i.e.*, **April 15, 2020** (the “Answer Deadline”). *See* Fed. R. Bankr. P. 7012; *see also* Summons, p.1 (notifying Defendant of 30-day deadline).

11. On May 11, 2020, counsel for the Plaintiff requested a Supplemental Summons, but was unable to effect service within 7 days of the issuance of the Supplemental Summons as required by Fed. R. Bankr. P. 7004(e) due to the COVID-19 pandemic (the “Pandemic”).

12. On June 24, 2020, counsel for the Plaintiff requested a Second Supplemental Summons for purposes of service of process upon the New York Secretary of State (the “Secretary of State”) as agent of a corporation or other business entity. On June 25, 2020, the Court issued the Second Supplemental Summons. Upon engaging a process server for such service, I was informed that due to the Pandemic, the Secretary of State will accept in person legal process by appointment only. Unfortunately, service was unable to be timely made before expiration of the Second Supplemental Summons.

13. On July 7, 2020, counsel for the Plaintiff requested a Third Supplemental Summons for purposes of service of process upon the New York Secretary of State. On July 9, 2020, the Court issued the Third Supplemental Summons. On July 9, 2020, service of process was successfully made to the Secretary of State. A true and correct copy of the Affidavit of Service is attached hereto as **Exhibit C**.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 3rd day of November, 2020 at North Plainfield, New Jersey.

By: La Asia S. Canty
La Asia S. Canty

SWORN TO AND SUBSCRIBED before me this
3rd day of November, 2020

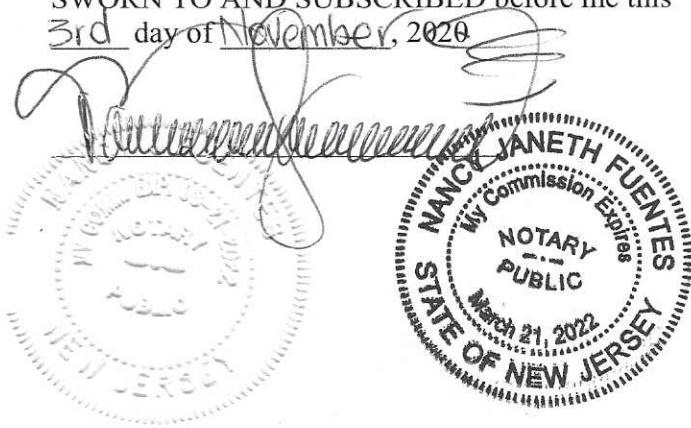


EXHIBIT A

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

2 River Terrace Apartment 12J, LLC
 Attn: Phil Thomas, Esq.
 c/o ROBINSON BROG LEINWARD GREENE, ET AL.
 875 THIRD AVENUE
 NEW YORK, NY 10022



9590 9402 5009 9063 2091 95

Article Number (Transfer from service label)

7003 3110 0003 6621 3260

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

☒ Agent☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes

If YES, enter delivery address below:

☐ No

3. Service Type

- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☒ Certified Mail®
- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery
- ☐ Insured Mail
- ☐ Insured Mail Restricted Delivery (over \$500)

- ☐ Priority Mail Express®
- ☐ Registered Mail™
- ☐ Registered Mail Restricted Delivery
- ☒ Return Receipt for Merchandise
- ☐ Signature Confirmation™
- ☐ Signature Confirmation Restricted Delivery

EXHIBIT B

7003 3110 0003 6621 3239

U.S. Postal Service™	
CERTIFIED MAIL™ RECEIPT <i>15600</i>	
<i>(Domestic Mail Only; No Insurance Coverage Provided)</i>	
For delivery information visit our website at www.usps.com ®	
OFFICIAL USE	
Postage	\$ 2.60
Certified Fee	3.55
Return Receipt Fee (Endorsement Required)	2.35
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 9.00
Sent To 2 River Terrace Apartment 12J, LLC THE LIMITED LIABILITY COMPANY 2 RIVER TERRACE APT. 12J NEW YORK, NY 10282	
Street, Apt. No., or PO Box No. City, State, ZIP+4	
PS Form 3800, June 2002 See Reverse for Instructions	

Postmark Here
JUN 1 2020

USPS Tracking®

[FAQs >](#)[Track Another Package +](#)**Tracking Number:** 70033110000366213239[Remove X](#)

Your item departed our USPS facility in WILMINGTON DE DISTRIBUTION CENTER on May 3, 2020 at 6:55 pm. The item is currently in transit to the destination.

In-Transit

May 3, 2020 at 6:55 pm
Departed USPS Regional Facility
WILMINGTON DE DISTRIBUTION CENTER

[Get Updates ✓](#)

Text & Email Updates

Tracking History**May 3, 2020, 6:55 pm**

Departed USPS Regional Facility
WILMINGTON DE DISTRIBUTION CENTER

Your item departed our USPS facility in WILMINGTON DE DISTRIBUTION CENTER on May 3, 2020 at 6:55 pm. The item is currently in transit to the destination.

May 3, 2020, 11:53 am

Arrived at USPS Regional Facility
WILMINGTON DE DISTRIBUTION CENTER

10/26/2020

USPS.com® - USPS Tracking® Results

May 2, 2020, 7:52 pm

Arrived at USPS Regional Facility
HARTFORD CT DISTRIBUTION CENTER

March 28, 2020, 6:20 am

Moved, Left no Address
NEW YORK, NY 10007

March 20, 2020, 3:45 pm

Forward Expired
NEW YORK, NY 10282

March 20, 2020

In Transit to Next Facility

March 18, 2020, 12:07 am

Departed USPS Regional Facility
NEW YORK NY DISTRIBUTION CENTER

March 17, 2020, 12:57 pm

Arrived at USPS Regional Facility
NEW YORK NY DISTRIBUTION CENTER

March 17, 2020, 11:26 am

Departed USPS Regional Facility
WILMINGTON DE DISTRIBUTION CENTER

March 16, 2020, 9:34 pm

Arrived at USPS Regional Facility
WILMINGTON DE DISTRIBUTION CENTER

Product Information

See Less

10/26/2020

USPS.com® - USPS Tracking® Results

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Go to our FAQs section to find answers to your tracking questions.

FAQs

EXHIBIT C

Attorney(s) Pachulski Stang Ziehl Jones Law Offices
 Index # **8-20-08051-AST**
 Purchased/Filed: July 9, 2020
 State of New York
 Court: Bankruptcy
 County: Eastern Dist.

AFFIDAVIT OF SERVICE - SECRETARY OF STATE

Howard M. Ehrenberg in his Capacity as liquidating Trustee of Orin Healthcorp, Inc., et al

Plaintiff(s)

against

Elena Sartison, et al

Defendant(s)

STATE OF NEW YORK) COUNTY OF ALBANY) SS CITY OF ALBANY)	DESCRIPTION OF PERSON SERVED:	Approx. Age: <u>55 Yrs.</u>
	Weight: <u>120 Lbs.</u> Height: <u>5' 0"</u> Sex: <u>Female</u> Color of skin: <u>White</u>	
	Hair color: <u>Blonde</u> Other: _____	

Robert Guyette _____, being duly sworn, deposes and says: deponent is over the age of eighteen (18) years; is not a party to this action, and resides in the State of NY, and that on July 10, 2020, at 12:30PM, at the office of the Secretary of State of the State of NY, located at 99 Washington Ave, 6th Fl, Albany, New York 12231 deponent served:
Supplemental Summons in an Adversary Proceeding and Complaint with Exhibit A

on

2 River Terrace Apartment 12J, LLC

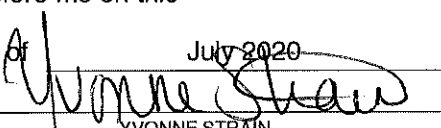
the Defendant in this action, by delivering to and leaving with Sue Zouky _____, AUTHORIZED AGENT in the Office of the Secretary of State, of the State of New York, personally at the Office of the Secretary of State of the State of New York, two (2) true copies thereof and that at the time of making such service, deponent paid said Secretary of State a fee of \$40 dollars; That said service was made pursuant to Section LIMITED LIABILITY COMPANY LAW §303.

Deponent further says that deponent knew the person so served as aforesaid to be the agent in the Office of the Secretary of State of the State of New York, duly authorized to accept such service on behalf of said defendant.

Sworn to before me on this

10th day of

July 2020


 YVONNE STRAIN
 NOTARY PUBLIC, State of New York
 01ST6314054, Schenectady
 Commission Expires November 3, 2022


 Robert Guyette

Invoice-Work Order # 2018345
 Attorney File # **Ehrenberg**